

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

DAMON LYNN STOVALL,

Petitioner

v.

RAYMOND LAWLER,

Respondent

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CIVIL NO. 4:CV-08-1536

(Judge McClure)

MEMORANDUM

August 20, 2008

Background

Damon Lynn Stovall (Petitioner), an inmate presently confined at the State Correctional Institution, Huntingdon, Pennsylvania (SCI-Huntingdon) initiated this *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 . The required filing fee has not been paid and the Petition is not accompanied by an *in forma pauperis* application. Stovall will be granted temporary *in forma pauperis* for the sole purpose of the filing his action with this Court.

Named as Respondent is SCI-Huntingdon Superintendent Raymond Lawler.

Petitioner states that he was convicted of indecent assault, simple assault, criminal attempt, and involuntary deviate sexual intercourse following a jury trial in the Erie County Court of Common Pleas. He is presently serving an eighteen (18) to thirty-six (36) year term of imprisonment. His present petition challenges the legality of his conviction on the grounds that he was provided with ineffective assistance of counsel. Specifically, Stovall contends that counsel failed to call material witnesses and erred by not arguing that an invalid sentence had been imposed.

28 U.S.C. § 2241(d) provides:

(d) Where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a State court of a State which contains two or more Federal judicial districts, the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

As noted earlier, Petitioner is attacking a conviction obtained against him in the Erie County Court of Common Pleas, which is located within the jurisdiction of the United States District Court for the Western District of Pennsylvania. Since the trial court, as well as any records, witnesses and counsel, are located within the

United States District Court for the Western District of Pennsylvania, it would be prudent to transfer this action to the Western District pursuant to § 2241(d). An appropriate Order will enter.

s/ James F. McClure, Jr.
JAMES F. McCLURE, JR.
United States District Judge

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ORDER

August 20, 2008

In accordance with the accompanying Memorandum, **IT IS HEREBY**

ORDERED THAT:

1. Petitioner is GRANTED temporary *in forma pauperis* status for the sole purpose of filing his action with this Court.
2. The Clerk of Court is directed to TRANSFER this case to the United States District Court for the Western District of Pennsylvania.
3. The Clerk of Court is directed to CLOSE the case.

s/ James F. McClure, Jr.
JAMES F. McCLURE, JR.
United States District Judge